

LEGAL REPRESENTATIVES OF CAPTAIN DAVID NOBLE,
DECEASED.

[To accompany Bill H. R. No. 506.]

MARCH 29, 1860.

Mr. FENTON, from the Committee on Revolutionary Claims, made the following

REPORT.

The Committee on Revolutionary Claims, to whom was referred the petition of the heirs of Captain David Noble, an officer of the revolution, having had the same under consideration, report:

That this claim was in 1841 presented to Congress. The Committee on Revolutionary Claims made a favorable report, and recommended a bill for the relief of the petitioners. A second and third like reports have been made to this House, recommending bills for the relief of the petitioners, followed by a similar report, with the recommendation of a bill for the relief of the petitioners, made by the Senate, all of the four committees of the two branches of Congress coming to the same conclusions and results.

At this stage of the case Congress referred it to the Court of Claims, and the claimants preferred their petition to said court, which petition set forth the interest of claimants in the claim, and how it accrued, claiming that their ancestor, Captain David Noble, was commissioned by Congress with the rank of captain in about the year 1775, in the continental service in the revolutionary war, and served therein until his death, having died in the service, which occurred in the month of July, 1776, leaving a widow and children him surviving. The widow being deceased, the orphan children become entitled to the seven years' half pay promised by the resolution of Congress of the 24th day of August, 1780.

Copy of ordinance of August 24, 1780.

“Resolved, That the resolutions of 15th May, 1778, granting half pay for seven years to the officers of the army who should continue in service to the end of the war be extended to the widows of those officers who have died or shall hereafter die in the service, to commence from the time of such officers' death, and continue for the term of seven

years; or, if there be no widow, or in case of her death or intermarriage, the said half pay be given to the orphan children of the officer dying as aforesaid, if he shall have left any; and that it be recommended to the legislatures of the respective States to which such officers belong to make provision for paying the same on account of the United States."

That after a hearing in the Court of Claims, the court determine that whatever may be the merits of the claim, it is barred by the operation of the several resolutions and acts of Congress referred to by the court, which barred said claim, to wit: the resolves of the 2d of November, 1785, 23d July, 1787, 23d March, 1792, 12th February, 1793, and which are called acts of limitation.

That at the present session of Congress the Court of Claims made their adverse report, (see Calendar, No. 108,) which was placed on the calendar of the House, and when in Committee of the Whole on the calendar on the 19th day of February last, the case was reached and called, when the adverse report of the Court of Claims was concurred in, without being read or stated, or any explanation made as to the merits of the claim. The House, in the case that next succeeded it, (No. 109,) having determined not to allow the statute of limitations to be used as a bar, but that each case should be determined upon their merits, and this claim being of a like character, it is now presented on petition, (referred to your committee,) praying for examination upon its merits, with the prayer of the petitioner that the acts of limitation be disregarded, and not applied in bar against this claim.

Your committee considering this claim to be a proper case for their consideration, have carefully examined the evidence, and now report to the House the facts presented to them. It appears by a certificate from the secretary of the Commonwealth of Massachusetts of March 30, 1840, that from an examination of the books and documents relative to military services in the war of the revolution in his department, the name of David Noble is borne on "a return of the names and places of residence of all the commissioned, non-commissioned officers, and soldiers who have enlisted in the 26th regiment of foot, now in the continental service, from its establishment, together with the casualties happened in the same service to this day, being the 6th of October, 1775," as captain from Pittsfield.

Solomon Martin testifies that he was well acquainted with Captain David Noble, of Pittsfield, Berkshire county, Massachusetts, and was himself second lieutenant under Captain Noble, and in the continental service in the revolution with him in 1775 and 1776; that he was with Captain Noble in Cambridge, and in New York, in Canada, and other places; that he returned with Captain Noble and his company from Canada to Crown Point and Ticonderoga, where Captain Noble was taken sick, and was removed in a boat to Skeensburg, where he died in the service in the summer of 1776.

The credibility of this witness is duly certified, and further sustained in what he says by being found on the original muster-roll of Captain Noble's company, on file, as second lieutenant. In further support of Captain Noble's service is an original letter from him dated at Crown Point, July 1, 1776, to his wife, and addressed to her as follows: "Mrs. Ruth Noble, Pittsfield, per favor of Mr. Chamberlin."

"CROWN POINT, July 1, 1776.

"DEAR WIFE: I would inform you that through Divine goodness I am alive but not very well, for by reason of hard fatigue before I had the small-pox, by marching and unsuitable diet, the distemper has left me in a poor state of health, though I had it very light. Ten days ago I was sent with the sick from Isle Auxnaux to this place, and have grown more poorly than better since I came here. Our army is very distressed by reason of the small-pox; we have had four thousand sick at once; I have not lost one of my company yet, though some have had it very severe; Sergeant Colefix is now very bad, and it is doubtful whether he ever recovers. I had two men taken by the Indians in Major Sherbern's party, which are redeemed; and one Samuel Merry, of my company, is either killed or taken by the regulars going down on a raft from Montreal to Sorrel. The distresses of our sick is so unaccountable that I cannot paint it out by pen and ink. (All my company have had it.) If it was not for the danger of the small-pox, I should be glad to have brother James or David come up and see me, and bring my horse, for I intend to try to come home if I remain so poorly. I believe that one of them may come safe by taking good care when he gets here. I suppose that there is about four thousand of the well of our army at the Isle Auxnaux, and whether they will stay there or come here I do not know. Tell Croner's wife that he has had the small-pox, and has got well over the distemper, but he has had the misfortune to have it fall into one of his eyes so that I am afraid he will lose the sight of one eye. He remembers his kind love to her and child. He intends to try to come home when I come. He cannot write for want of paper. It is very hard living: wine, one dollar per quart; spirits, one dollar per quart; loaf sugar, three shillings per pound; butter, one shilling and sixpence—nor to be had for that; no milk. All the above articles hardly to be had. Vinegar, three shillings per quart. I shall write no more at present, but remain your loving husband,

"DAVID NOBLE, *Captain.*"

This letter was written but a few days before the death of Captain Noble, and alludes to the sickness which proved fatal to him. Captain Noble sacrificed his entire property, as well as his life, in the service of his country. On the first alarm which spread through the country, after the battles of Concord and Bunker Hill, he raised a company of volunteers in Berkshire county, Massachusetts, and marched with them as far as Springfield; afterwards, with his own means, purchased "one hundred and thirty stand of arms," new, for the supply of his company; drilled them through the next winter; "clothed them with regimentals, their breeches being made of buckskin, their coats of blue, turned up with white;" sent from Cambridge, whither he had gone, "for all the goods that remained in his store at home, both linen and woollens, that would answer for soldiers' clothing." "We harvested," says his son, now deceased, in a letter written in 1836, "thirty acres of wheat, which was floured and sent to Cambridge the next winter, all excepting what our families use." "My father sold

two farms in Stephentown, in the State of New York, and one or two in Pittsfield about the same time. Those in the State of New York were sold in 1774, which enabled him to supply his company with their arms and clothing. The reason of my recollecting the circumstance of my father selling the farms in the State of New York is that the man who bought them (their names were Jones and David Green) brought his money in gold, quilted around every piece of his underclothes, which took my aunt some time to rip the gold pieces out. He then went to Philadelphia and bought the deer skins, or leather, and at the same time hired a breeches maker, and the breeches were all made up at our house."

The present application is not for remuneration for the property thus patriotically sacrificed, but simply for the redemption of the pledge of the government that the widow and orphan children of such officers as died in the service should be entitled to seven years' half pay. The committee believe that pledge should be redeemed, and report a bill accordingly.